

Message Text

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ORIGIN EB-07

INFO OCT-01 NEA-10 ISO-00 L-03 TRSE-00 COME-00 CIEP-01

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L/EB:SBOND (SUBS)

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TREASURY:PDAVIS (SUBS)

COMMERCE: DARRILL (SUBS)

CIEP:GKAMENS (INFO)

STR:TGRAHAM (INFO)

AID/GC:WWARREN (SUBS)

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FM SECSTATE WASHDC

TO AMEMBASSY RABAT PRIORITY

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: EXXON CLAIM AND ELIGIBILITY FOR GENERALIZED
PREFERENCES (GSP)

REFS: STATE A-10523 (DEC. 28, 1973)

1. INTERAGENCY COMMITTEE CONSIDERING RECOMMENDATIONS TO
THE PRESIDENT CONCERNING COUNTRY ELIGIBILITY FOR GSP UNDER
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THE EXPROPRIATION PROVISION (SEC. 502(B)(4)) OF THE TRADE

ACT OF 1974 HAS NOT YET COMPLETED ITS REVIEW OF A NUMBER OF "GRAY-AREA" COUNTRIES, INCLUDING MOROCCO, AND WILL BE RECONSIDERING THE CONTINUED ELIGIBILITY OF SUCH COUNTRIES BEFORE THE PLANNED TIME FOR IMPLEMENTATION OF GSP ON JANUARY 1, 1976. IF APPROPRIATE, WE WILL RECOMMEND NECESSARY CHANGES TO THE LISTS OF ELIGIBLE BENEFICIARIES AT THAT TIME.

2. WITH PARTICULAR REFERENCE TO MOROCCO, BEFORE WE WERE TO MAKE ANY RECOMMENDATION THAT MOROCCO BE FOUND INELIGIBLE FOR GSP, WE WOULD HAVE TO REVIEW INTENSIVELY THE DETAILED HISTORY OF THE EXXON NEGOTIATIONS TO DETERMINE WHETHER THE GOM IS TAKING STEPS TO DISCHARGE ITS OBLIGATIONS TO EXXON UNDER INTERNATIONAL LAW AS REQUIRED BY SEC. 502(B)(4)(D)(II) OF THE ACT. IT MAY, HOWEVER, BE DIFFICULT TO

SUSTAIN A JUDGMENT THAT SUCH STEPS ARE BEING TAKEN UNLESS PROGRESS TOWARD GETTING THE NEGOTIATIONS BACK ON TRACK IS MADE PRIOR TO OUR DECEMBER REVIEW. ILLUSTRATIVE STEPS THE GOM MIGHT CONSIDER TAKING IN THE INTERIM INCLUDE APPRISING EXXON OF GOM WILLINGNESS TO CONSIDER ANY NEW EXXON PROPOSAL, OR THAT THE GOM IS OTHERWISE WILLING TO RESUME SERIOUS NEGOTIATIONS OR DISCUSSIONS ON COMPENSATION.

3. IF WE WERE UNABLE TO SUSTAIN SUCH A DETERMINATION, MOROCCO WOULD LOSE ITS ELIGIBILITY FOR GSP UNLESS THE PRESIDENT INVOKED A "NATIONAL ECONOMIC INTEREST" WAIVER. WE HAVE NOT YET CONSIDERED WHETHER SUCH WAIVER WOULD BE FEASIBLE OR APPROPRIATE FOR MOROCCO.

4. EMBASSY SHOULD ALSO BE AWARE OF SIMILAR LEGISLATION CALLING FOR THE USG TO SUSPEND BILATERAL ASSISTANCE, AND TO VOTE NEGATIVELY ON LOANS UNDER CONSIDERATION IN INTERNATIONAL DEVELOPMENT BANKS, TO COUNTRIES WHICH EXPROPRIATE AMERICAN PROPERTY IN VIOLATION OF INTERNATIONAL LAW (THE HICKENLOOPER AND GONZALEZ AMENDMENTS, RESPECTIVELY). THERE IS NO EXPRESS OR AUTOMATIC LINKAGE BETWEEN THE THREE PROVISIONS (AND THE GONZALEZ AMENDMENT HAS NO "NATIONAL INTEREST" OR "NATIONAL ECONOMIC INTEREST" WAIVER, AS DO HICKENLOOPER AND 502 (B)(4), RESPECTIVELY), LIMITED OFFICIAL USE

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BUT THERE ARE SIMILARITIES IN LANGUAGE AND INTENTION. AN ADVERSE FINDING UNDER 502(B)(4) WOULD AS A PRACTICAL MATTER INCREASE THE LIKELIHOOD THAT THE USG WOULD APPLY HICKENLOOPER. IT IS ALMOST CERTAIN THAT THE USG WOULD APPLY GONZALEZ IN THESE CIRCUMSTANCES.

5. TO PUT THE GOM ON NOTICE OF POSSIBLE TERMINATION OF GSP ELIGIBILITY, AND TO ENCOURAGE STEPS RESULTING IN

RESUMPTION OF THE NEGOTIATIONS BEFORE ANY SUCH DECISION IS MADE, EMBASSY SHOULD MAKE FOLLOWING POINTS TO APPROPRIATE GOM OFFICIALS:

A. WE HAVE RECENTLY BEEN CONDUCTING A REVIEW OF COUNTRY ELIGIBILITY FOR GSP UNDER THE EXPROPRIATION PROVISION OF THE TRADE ACT OF 1974. FOR THE TIME BEING, WE HAVE CONCLUDED THAT MOROCCO SHOULD RETAIN ITS STATUS AS AN ELIGIBLE BENEFICIARY DEVELOPING COUNTRY.

B. WE WILL, HOWEVER, BE RECONSIDERING THE ELIGIBILITY OF A NUMBER OF COUNTRIES, INCLUDING MOROCCO, BEFORE THE PLANNED TIME FOR IMPLEMENTATION OF GSP ON JANUARY 1, 1976, AND, IF APPROPRIATE, WILL MAKE NECESSARY CHANGES TO THE LISTS OF ELIGIBLE BENEFICIARIES AT THAT TIME.

C. IN PARTICULAR, IT MAY BE DIFFICULT TO SUSTAIN A

DETERMINATION THAT MOROCCO IS TACING STEPS TO DISCHARGE ITS OBLIGATIONS TO U.S. PROPERTY OWNERS UNDER INTERNATIONAL LAW AS REQUIRED BY THE ACT UNLESS PROGRESS IS MADE SOON TOWARD GETTING NEGOTIATIONS BACK ON TRACK AND RESOLVING THE EXXON CLAIM.

D. IF WE WERE UNABLE TO SUSTAIN SUCH A DETERMINATION, MOROCCO COULD BE EXPECTED TO LOSE ITS ELIGIBILITY FOR GSP. IN ADDITION, THE GOM SHOULD BE AWARE OF SIMILAR LEGISLATION CALLING FOR THE USG TO SUSPEND BILATERAL ASSISTANCE, AND TO VOTE NEGATIVELY ON LOANS UNDER CONSIDERATION IN INTERNATIONAL DEVELOPMENT BANKS, TO COUNTRIES WHICH EXPROPRIATE AMERICAN PROPERTY WITHOUT DISCHARGING THEIR OBLIGATIONS TO U.S. CITIZENS UNDER INTERNATIONAL LAW (THE HICKENLOOPER AND GONZALEZ AMENDMENTS, LIMITED OFFICIAL USE

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RESPECTIVELY). GIVEN THE SIMILARITIES BETWEEN THESE PROVISIONS IN LANGUAGE AND INTENTION, AN ADVERSE FINDING UNDER THE TRADE ACT WOULD MAKE IT DIFFICULT TO AVOID TAKING THE REQUISITE ACTION UNDER HICKENLOOPER AND GONZALEZ.

E. WE ARE HOPEFUL THAT SIGNIFICANT PROGRESS WILLHBE MADE SOON TOWARD RESOLVING THE EXXON CLAIM.

6. FOR THE EMBASSY'S INFORMATION, GENERAL GUIDANCE ON USG VIEW OF REQUIREMENTS OF INTERNATIONAL LAW WITH RESPECT TO EXPROPRIATED PROPERTY, AND ON POST'S ROLE IN HANDLING INVESTMENT DISPUTES, PREVIOUSLY PROVIDED REF AIRGRAM.

7. F.Y.I. FOR AMBASSADOR. USG DOES NOT WISH TO PROVOKE

A CONFRONTATION WITH THE GOM OVER THE EXPROPRIATION ISSUE.
WE DO, HOWEVER, HAVE U.S. LAWS RELATED TO EXPROPRIATION,
AND IN ORDER TO MEET THESE PROVISIONS IT IS IMPORTANT
THAT WE ARE ABLE TO DEMONSTRATE FORWARD PROGRESS SOON.
WE WOULD APPRECIATE YOUR HELP IN IMPRESSING UPON THE GOM
THE IMPORTANCE OF MOVING FORWARD, ESPECIALLY IN THE NEXT
FEW WEEKS. END F.Y.I.

8. PLEASE ADVISE RESULTS. KISSINGER

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